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Chairman: Mr. Wenaweser ..... (Liechtenstein)

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The meeting was called to order at 3.35 p.m.

Agenda item 109: Human rights questions (*continued*)

(b) Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms (*continued*) (A/C.3/57/L.68)

Draft resolution A/C.3/57/L.68: The right to food

1. **Mr. Amorós Núñez** (Cuba) announced that the Comoros, France and Paraguay had joined the sponsors of the draft resolution. His delegation, in agreement with the other sponsors, wished to withdraw the motion asking the Committee not to take action on the oral amendments submitted by the United States of America at the fifty-fifth meeting. There were a number of reasons why it was urgently necessary to adopt the draft resolution without amendment: in a world in which food production was greater than ever, there were still more than 600 million persons who were undernourished, and 36 million of them died each year, directly or indirectly as a result of hunger or malnutrition. The international community should, as a matter of urgency, take all necessary measures to relieve the condition of these persons, and accordingly his delegation invited the Committee to reject the proposed amendments, which were irrelevant and unacceptable, and to adopt the resolution as it stood. Otherwise the Committee would be taking a retrograde step that would wipe out 10 years of its work aimed at making the right to food a reality.

2. **The Chairman** announced that the delegation of Cuba had requested a recorded vote on the amendment to the draft resolution that had been submitted orally by the delegation of the United States of America.

3. *A recorded vote was taken.*

In favour:

Armenia, Australia, Belgium, Canada, Denmark, Israel, Kazakhstan, Luxembourg, Marshall Islands, Netherlands, New Zealand, Sweden, United Kingdom of Great Britain and Northern Ireland, United States of America, Uzbekistan.

Against:

Algeria, Andorra, Angola, Antigua and Barbuda, Austria, Bahrain, Bangladesh, Belarus, Belize, Benin, Bhutan, Bolivia, Botswana, Brunei Darussalam, Burkina Faso, Burundi, Cambodia, Cameroon, Cape Verde, Chad, Chile, China, Colombia, Comoros, Congo, Costa Rica, Croatia, Cuba, Cyprus, Democratic People's Republic of Korea, Democratic Republic of the Congo, Djibouti, Dominican Republic, Ecuador, Egypt, El Salvador, Eritrea, Ethiopia, Finland, France, Gambia, Georgia, Germany, Ghana, Greece, Grenada, Guatemala, Guinea-Bissau, Haiti, Honduras, India, Indonesia, Iran (Islamic Republic of), Ireland, Iceland, Italy, Jamaica, Libyan Arab Jamahiriya, Kenya, Kuwait, Lebanon, Lao People's Democratic Republic, Lesotho, Liechtenstein, Madagascar, Malaysia, Malawi, Mali, Malta, Mauritania, Mexico, Monaco, Mongolia, Morocco, Mozambique, Myanmar, Namibia, Nepal, Nicaragua, Nigeria, Norway, Pakistan, Panama, Paraguay, Peru, Philippines, Portugal, Qatar, Romania, Russian Federation, Saint Kitts and Nevis, Saint Lucia, Samoa, San Marino, Saudi Arabia, Sierra Leone, Singapore, Slovenia, Somalia, South Africa, Spain, Sudan, Sri Lanka, Suriname, Swaziland, Syrian Arab Republic, Thailand, Togo, Tunisia, Turkey, Ukraine, United Arab Emirates, United Republic of Tanzania, Venezuela, Viet Nam, Yemen, Zambia, Zimbabwe.

Abstaining:

Albania, Argentina, Azerbaijan, Bahamas, Barbados, Bosnia and Herzegovina, Brazil, Bulgaria, Côte d'Ivoire, Czech Republic, Estonia, Guyana, Hungary, Latvia, Lithuania, Poland, Republic of Korea, Republic of Moldova, Rwanda, Senegal, Slovakia, Switzerland, The former Yugoslav Republic of Macedonia, Trinidad and Tobago, Tuvalu, Uganda, Uruguay, Yugoslavia.

4. *The proposed amendment to draft resolution A/C.3/57/L.68 was rejected by 118 votes to 15, with 28 abstentions.*

5. **Mr. Winnick** (United States of America) said that, unfortunately, his delegation was unable to join the consensus on the draft resolution. The United States of America had recently committed to combating hunger in the world, most notably by developing biotechnologies, and it had also agreed at the World Food Summit: five years later, held in Rome in June 2002, to the establishment of an

intergovernmental working group mandated to draft a set of voluntary guidelines aimed at the realization of the right to food. His delegation intended to participate actively in the work of the working group. It was regrettable that the draft resolution did not reflect the consensus achieved at the Summit. His delegation was convinced that the right to food should be viewed within the more general context of every person's right to a standard of living adequate for his or her health and well-being, and took issue with the positions adopted by the Special Rapporteur on the right to food, including in particular his recommendation to the Governments of southern Africa that they should refuse the food aid offered by the United States in the form of genetically modified maize. Accordingly, his delegation had requested a recorded vote on the draft resolution, and intended to vote against it.

6. **The Chairman** announced that a recorded vote on the draft resolution had been requested.

7. *A recorded vote was taken.*

In favour:

Afghanistan, Albania, Algeria, Andorra, Angola, Antigua and Barbuda, Argentina, Armenia, Austria, Azerbaijan, Bahamas, Bahrain, Barbados, Belarus, Belgium, Belize, Benin, Bhutan, Bolivia, Bosnia and Herzegovina, Botswana, Brazil, Brunei Darussalam, Bulgaria, Burkina Faso, Burundi, Cambodia, Cameroon, Cape Verde, Chad, Chile, China, Colombia, Comoros, Congo, Costa Rica, Côte d'Ivoire, Croatia, Cuba, Cyprus, Czech Republic, Democratic People's Republic of Korea, Democratic Republic of the Congo, Denmark, Djibouti, Dominican Republic, Ecuador, Egypt, El Salvador, Eritrea, Estonia, Ethiopia, Finland, France, Gabon, Gambia, Georgia, Germany, Ghana, Greece, Grenada, Guatemala, Guinea-Bissau, Guyana, Haiti, Honduras, Hungary, India, Indonesia, Iran (Islamic Republic of), Ireland, Iceland, Italy, Jamaica, Japan, Jordan, Kazakhstan, Kenya, Kuwait, Lao People's Democratic Republic, Latvia, Lebanon, Lesotho, Libyan Arab Jamahiriya, Liechtenstein, Lithuania, Luxembourg, Madagascar, Malaysia, Malawi, Maldives, Mali, Malta, Mauritius, Mauritania, Mexico, Monaco, Mongolia, Morocco, Mozambique, Myanmar, Namibia, Nepal, Netherlands, New Zealand, Nicaragua, Nigeria, Norway, Oman, Pakistan, Panama, Paraguay, Peru, Philippines, Poland, Portugal, Qatar, Republic of Korea, Republic of Moldova, Romania, Russian Federation, Rwanda, Saint Kitts and Nevis, Saint Lucia, Samoa, San Marino, Saudi Arabia, Senegal, Sierra Leone, Singapore, Slovakia, Slovenia, Somalia, South Africa, Spain, Sudan, Sri Lanka, Suriname, Swaziland, Sweden, Switzerland, Syrian Arab Republic, Thailand, The former Yugoslav Republic of Macedonia, Togo, Trinidad and Tobago, Tunisia, Turkey, Uganda, Ukraine, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, Uruguay, Venezuela, Viet Nam, Yemen, Yugoslavia, Zambia, Zimbabwe.

Against:

Marshall Islands, United States of America.

Abstaining:

Australia, Bangladesh, Canada, Israel.

8. *Draft resolution A/C.3/57/L.68 was adopted by 160 votes to 2, with 4 abstentions.*

9. **Mr. von Kaufmann** (Canada) said that his delegation supported the progressive realization of the right to food and regarded it as essential to adopt practical resolutions on the question. However, the international community should make more of an effort to live up to its existing commitments with a view to realizing that right at the national level, and should also produce a clearer definition of the term. The way the Special Rapporteur on the right to food had presented his report was cause for concern; in particular, his excessive emphasis on international rather than national realization of the right to food and his assertions relating to the justiciability of that right were surprising. In view of the numerous favourable references to the work of the Special Rapporteur in the draft resolution, his delegation had felt obliged to abstain during the voting.

10. **Ms. Meehan** (Australia), speaking in explanation of vote on the amendments to the draft resolution that had been submitted by the United States of America, said that her delegation shared the view of its United States counterpart that the proposed amendments did not fundamentally alter the sense of the text of the draft resolution, and certainly would not have set the Committee's work back by 10 years. Accordingly, it had been unable to vote in favour of the text of the draft resolution as a whole.

11. **Ms. Grollová** (Czech Republic) said that it was gratifying that the draft resolution had been adopted. In the future, however, it would be desirable for any proposed amendments, even minor ones, to be submitted sufficiently far in advance for every delegation to have time to consider them adequately.

12. **Mr. Amorós Núñez** (Cuba) said that his delegation was firmly convinced that hunger was an outrage and a violation of human dignity. The right to food deserved the Third Committee's full attention, no less than all other human rights. His delegation wished to thank those delegations that had supported the adoption of the draft resolution.

13. **Mr. Begg** (New Zealand) said that his delegation still had some concerns about aspects of the Special Rapporteur's report, including in particular his recommendation that the right to food should be deemed to take priority over other rights. It was worth recalling that all human rights, whether economic, social, cultural, civil or political, were universal, indivisible, interdependent and interrelated.

Draft resolution A/C.3/57/L.70: Khmer Rouge trials

14. **The Chairman** announced that postponement of the voting on the draft resolution had been requested.

15. **Mr. Haraguchi** (Japan) said that his delegation was disturbed at the suggestion, and would like to know which delegations had requested postponement of the voting, and for what reasons.

16. **The Chairman** said that it had not been his own idea; he had received a request to that effect.

17. **Ms. Chatsis** (Canada) said that her delegation had been one of those requesting postponement of the voting. A number of important questions remained unresolved, beginning with the exact nature of the mandate that was about to be entrusted to the Secretary-General for negotiations with the Government of Cambodia aimed at establishing Extraordinary Chambers within the existing court structure of Cambodia. It was legitimate for the Secretary-General and the Legal Counsel to have an opportunity of stating their views in the matter. The question was whether the text of the draft resolution conferred a sufficiently clear mandate on the United Nations. It was for that reason that her delegation had requested that voting on the draft resolution should be postponed for 24 hours.

18. **Mr. Manalo** (Philippines) said that his delegation shared the view of the Japanese delegation. It and the Australian delegation had done admirable work. Consultations on the draft resolution had been under way for the previous three months, and the text before the Committee was the best possible one under the circumstances. It was to be feared that the result of postponing the voting in order to arrive at a more satisfactorily worded draft resolution might be to make an already sensitive situation even more complex. An immediate vote would therefore be preferable.

19. **Mr. Davidse** (Netherlands) said that postponing the vote was justifiable and constituted a prudent precaution. It was important for the Secretary-General to state his views on the question.

20. **Mr. Zellweger** (Switzerland) complimented the Japanese and French delegations on their work. The establishment of Extraordinary Chambers within the existing court structure of Cambodia was of crucial importance. If those who had committed crimes between 1975 and 1979, when the country had been known as Democratic Kampuchea, were to be prosecuted, the prosecutions must be pursued with determination and conviction. In his delegation's view, the text of the draft resolution was not yet fully satisfactory, for three reasons. In the first place, it still contained some ambiguous passages. The international community should ensure that the credibility of the proposed Extraordinary Chambers would be beyond question, and that they would exercise their jurisdiction in accordance with international standards of justice, fairness and due process of law, as stated in operative subparagraph 4(a). The wording of that subparagraph was insufficiently ironclad in that respect. In the second place, the draft resolution did not enjoy the clear and unambiguous support of all the delegations concerned. Yet it had a long history behind it, and had given rise to difficult negotiations between the United Nations and the Government of Cambodia. Those negotiations had been suspended in February 2002; when they resumed, they must be carried through to completion definitively and convincingly. In the third place, it was important to discover the Secretary-General's own view of the mandate with which he was about to be entrusted, and to determine whether he regarded it as a reliable basis for the prospective negotiations. If it appeared that the Secretary-General was prepared to accept that mandate, the Swiss delegation would vote in favour of the draft resolution.

Postponing the vote for 24 hours would not disrupt the Committee's work.

21. **Ms. Miller** (Sweden) said that the vote should be postponed so that the Secretary-General would not be confronted with a *fait accompli*.

22. **Ms. Sriratanaban** (Thailand) said that her delegation agreed with the delegation of the Philippines that the vote should be taken without delay. The Government of Cambodia intended to resume negotiations with the United Nations, and the international community should support it. The delegations of France and Japan were to be complimented on their work. In addition, she thanked the delegation of Australia for taking the initiative on the draft resolution.

23. **Mr. Haraguchi** (Japan) thanked the representatives of Canada, the Netherlands, Sweden and Switzerland for explaining why they had requested postponement of the vote. However, his delegation was not persuaded by the reasons that had been given, and would like to see the draft resolution put to a vote. The text had been drafted after the Secretary-General had said in August 2002 that he needed to be given a clear mandate, and thus it did constitute a reliable basis for the resumption of negotiations. The representative of Switzerland had mentioned two ambiguous passages in the text of the draft resolution. In that connection, it should be noted that the "arrangements" referred to in operative paragraph 4 would not be devised by the Government of Cambodia alone, but in cooperation with the United Nations. Furthermore, the Extraordinary Chambers would be established with the assistance of the United Nations. The reason why articles 14 and 15 of the International Covenant on Civil and Political Rights were the only ones cited in the draft resolution was that they contained the most explicit reference to international standards of justice, fairness and due process of law. There was, however, no doubt that the other relevant articles of the Covenant and the provisions of other relevant international instruments and conventions to which Cambodia was a party would also be applied. The Cambodian Law on the Establishment of Extraordinary Chambers stipulated that those Chambers would have jurisdiction over senior leaders of Democratic Kampuchea and those who were most responsible for the crimes referred to in operative paragraph 2 and the most serious violations of human rights as defined by Cambodian criminal law and international humanitarian law. The wording of the draft resolution was thus clear, and was unmistakably expressive of the will of the Member States. Those delegations that had said that they would like to hear the Secretary-General's views on the matter should have spoken up sooner. It was the will of the Member States that should first and foremost be taken into account, and they would hardly be influenced by the views of the Secretariat. Consequently, his delegation was not convinced that it was in any way necessary to postpone the vote. When the draft resolution had been adopted, his delegation, in cooperation with the Secretariat, would support the resumption of negotiations between the Government of Cambodia and the United Nations.

24. **Mr. Münch** (Germany) said that his delegation took a positive view of the reasons given for postponing the vote. The draft resolution, which had been produced very recently, was an attempt to reach a shared objective, namely the prosecution of those who had committed crimes during the period when the name of the country had been Democratic Kampuchea. However, there were still some uncertainties in the text of the draft resolution which it would be desirable to clarify. That would be a light price to pay for an invaluable consensus on a question of such vital importance. The judicial body that would be established as a result of the adoption of the draft resolution would receive the attention and assistance of the international community, and that made the emergence of a solid consensus all the more essential.

25. **Mr. Xie** Bohua (China) said that unofficial consultations on the draft resolution had been going on for some time. That being the case, it was surprising that the delegations that had requested a postponement had not made their concerns known earlier. While his own delegation considered that the draft resolution had not been made available sufficiently far in advance, the representative of Japan had said that the Committee would take a decision during the current meeting, and that no request for postponement had been made ahead of time. It was questionable whether putting off the vote for 24 hours would resolve any remaining uncertainty about the wording of the draft resolution. In any case, the text appeared to be quite clear: the draft resolution called for the resumption of negotiations with the Government of Cambodia for the establishment of Extraordinary Chambers within the existing court structure of Cambodia. As soon as the draft resolution had been adopted, the Secretary-

General would have available to him a secure basis for the resumption of those negotiations. It was for that reason that a vote should be taken without delay.

26. **Mr. Barcroft** (Ireland) said that his delegation was requesting postponement of the vote, as there were still some remaining ambiguities in the wording of the draft resolution. It would be appropriate and prudent for the Secretariat to be given an opportunity of conveying its views to the Committee.

27. **Mr. Amorós Núñez** (Cuba) said that his delegation had had the text of the draft resolution in its possession for a sufficient length of time to have been able to transmit it to the Government of Cuba and to receive instructions back. Accordingly, it was dubious whether a postponement would be desirable. Further amendments to the wording of the draft resolution would be a source of serious difficulty for the various delegations. It was for that reason that a decision on the text should be taken without delay.

28. **Mr. Florent** (France) said that his delegation wished to align itself with those that were not in favour of postponing the vote. It shared the view of the delegations of Japan and the Philippines: it was for the Member States to confer a mandate on the Secretary-General, who had asked them to do so. Moreover, it was not realistic to expect the Secretariat to present its position within 24 hours. Apart from a few amendments, mainly affecting operative paragraph 4, the draft resolution had been the subject of negotiations extending over a period of several months. The delegations that were requesting postponement of the vote had all taken part in those negotiations throughout. As the draft resolution had been tabled a week before the meeting, the Secretariat would have had plenty of time to transmit a message if it had wished to do so.

29. **Mr. Ouch Borith** (Cambodia) thanked the delegations that had spoken against a postponement of the vote, the only effect of which would have been to jeopardize the resumption of negotiations. The Cambodian people, who had had to endure the atrocities perpetrated by the Khmer Rouge, expected justice to be done. His delegation called upon all the delegations to vote in favour of the draft resolution.

30. **Ms. Mohamed Ahmed** (Sudan) said that in her delegation's view, the reasons given by the representative of Japan were sound. Aligning itself with the delegations of Thailand, China, France and the Philippines, it would like to see an immediate vote.

31. **Mr. Gopinathan** (India) said that his delegation wished to align itself with those of Japan, the Philippines, Thailand, France and Cambodia. The delegations of Austria, Japan and France had done admirable work. Most of the delegations that were requesting postponement of the vote had taken part in the consultations. No new amendments to the wording of the draft resolution of sufficient importance as to justify postponing the vote had been brought to the Committee's attention. A delicate balance had been achieved, but if the Committee had to wait until the Secretariat had expressed its views on the matter, that balance might be upset, delaying the resumption of negotiations.

32. **Mr. Sinaga** (Indonesia) described the work accomplished by France and the French and Japanese delegations as excellent. The Government of Cambodia had been suspected of seeking to delay the resumption of negotiations; for that reason, the Committee should proceed without delay.

33. **Mr. Wood** (United Kingdom) said that it was essential to gather all necessary information before taking a decision, and that the Secretariat should express its views on the draft resolution.

34. **Mr. Rostow** (United States of America) said that Cambodia supported the draft resolution, which entrusted the Secretary-General with a solid mandate, a necessary condition for success in his endeavour.

35. **Ms. Lomeban Tobing-Klein** (Suriname) said that postponing the vote would be justifiable only on compelling grounds, and no serious reasons for so doing had been forthcoming.

36. **The Chairman** noted that no consensus was emerging. The proposal by the delegation of Canada, supported by other delegations, that voting on the draft resolution should be postponed by 24 hours, would therefore be put to a vote.

37. *A recorded vote was taken.*

In favour:

Belgium, Canada, Finland, Germany, Ireland, Jordan, Liechtenstein, Luxembourg, Netherlands, New Zealand, Norway, Sweden, Switzerland, United Kingdom of Great Britain and Northern Ireland.

Against:

Afghanistan, Andorra, Angola, Antigua and Barbuda, Azerbaijan, Bangladesh, Bhutan, Bosnia and Herzegovina, Brunei Darussalam, Burkina Faso, Burundi, Cambodia, Chad, China, Comoros, Congo, Cuba, Cyprus, Democratic Republic of the Congo, Djibouti, Ecuador, El Salvador, Eritrea, Ethiopia, France, Gabon, Gambia, Georgia, Greece, Grenada, Guatemala, India, Indonesia, Israel, Italy, Japan, Kazakhstan, Kenya, Lao People's Democratic Republic, Libyan Arab Jamahiriya, Malaysia, Malawi, Maldives, Mali, Malta, Marshall Islands, Mauritius, Mauritania, Mexico, Monaco, Mongolia, Mozambique, Myanmar, Namibia, Nepal, Nicaragua, Nigeria, Paraguay, Peru, Philippines, Poland, Portugal, Romania, Russian Federation, Saint Kitts and Nevis, Saint Lucia, Samoa, Saudi Arabia, Senegal, Sierra Leone, Singapore, Somalia, South Africa, Spain, Sudan, Sri Lanka, Suriname, Swaziland, Syrian Arab Republic, Thailand, Togo, Tunisia, Turkey, Tuvalu, Uganda, United Republic of Tanzania, United States of America, Viet Nam, Zambia, Zimbabwe.

Abstaining:

Albania, Algeria, Argentina, Armenia, Australia, Austria, Bahamas, Barbados, Belarus, Belize, Benin, Bolivia, Botswana, Brazil, Bulgaria, Cameroon, Cape Verde, Chile, Colombia, Costa Rica, Côte d'Ivoire, Croatia, Czech Republic, Democratic People's Republic of Korea, Denmark, Dominica, Dominican Republic, Egypt, Estonia, Ghana, Guinea-Bissau, Guyana, Hungary, Iceland, Iran (Islamic Republic of), Jamaica, Kuwait, Latvia, Lebanon, Lesotho, Lithuania, Madagascar, Mali, Malta, Morocco, Pakistan, Panama, Qatar, Republic of Korea, Republic of Moldova, Rwanda, San Marino, Slovakia, Slovenia, The former Yugoslav Republic of Macedonia, Trinidad and Tobago, Ukraine, Venezuela, Yugoslavia.

38. *The request that voting on the draft resolution should be postponed for 24 hours was rejected by 90 votes to 14, with 59 abstentions.*

39. **The Chairman** announced that a recorded vote would be taken on the draft resolution. The programme budget implications of the draft resolution in question were indicated in document A/C.3/57/L.85.

40. **Mr. de Barros** (Secretary of the Committee) read out the amendments that had been made to the text of the draft resolution: in the seventh preambular paragraph, after "Extraordinary Chambers within the existing court structure of Cambodia", the words "(hereinafter referred to as Extraordinary Chambers)" had been added, while in the first operative paragraph of the English-language version, the words "to establish" had been replaced by "on the establishment of".

41. **The Chairman** asked the representative of the Japanese delegation, which had submitted the draft resolution, whether he wished to have the floor.

42. **Mr. Haraguchi** (Japan) said that the draft resolution was the outcome of efforts aimed at creating a legitimate framework within which the Khmer Rouge could be tried. If the draft resolution were rejected, the possibility of bringing them to justice that it afforded might never recur. He urged all Member States to support the draft resolution, and noted that the Government of Cambodia itself supported the draft resolution as it stood. Its cooperation was thus assured, and the version of the text that was currently before the Committee represented the wording that represented the best chance of a resumption of negotiations between the Government of Cambodia and the Secretary-General.

43. **The Chairman** announced that a recorded vote on the draft resolution had been requested.

44. **Mr. Davidse** (Netherlands), speaking in explanation of vote before the voting, said that his delegation had requested a recorded vote, and that that request had been supported by the delegations of Canada, Germany and Ireland. However, his delegation would abstain. It was regrettable that it had not been possible for the Legal Counsel to be heard on the question.

45. **Ms. Chatsis** (Canada) said that her delegation would abstain. While the Cambodian people was entitled to justice, there were grounds for concern about the mandate with which the Assembly was about to entrust the Secretary-General. More reliable safeguards with respect to international standards of justice, fairness and due process of law would be desirable. The delegation of New Zealand was aligning itself with her remarks.

46. **Mr. Münch** (Germany) said that his delegation would abstain. The negotiations had been arduous, and there were still some ambiguities with respect to international standards of justice, fairness and due process of law in the matter of the Extraordinary Chambers which it was proposed to establish. Moreover, Cambodia had not become a sponsor of the draft resolution, and his delegation wondered why. It was to be hoped that that decision was not the result of a lack of conviction.

47. **Mr. Barcroft** (Ireland) said that his delegation would abstain. It was unfortunate that Cambodia had not become a sponsor of the draft resolution, and it was also unfortunate that it had not been possible to hear the views of either the Secretariat or the Legal Counsel on the question.

48. *A recorded vote was taken.*

In favour:

Algeria, Andorra, Antigua and Barbuda, Argentina, Armenia, Australia, Austria, Azerbaijan, Bahamas, Bangladesh, Barbados, Belize, Bhutan, Bolivia, Bosnia and Herzegovina, Botswana, Brunei Darussalam, Bulgaria, Burkina Faso, Burundi, Cambodia, Chad, Chile, China, Colombia, Comoros, Côte d'Ivoire, Cuba, Cyprus, Democratic Republic of the Congo, Djibouti, Dominica, Dominican Republic, Egypt, Ecuador, El Salvador, Eritrea, Ethiopia, Fiji, France, Gabon, Georgia, Ghana, Greece, Guatemala, Guinea-Bissau, Guyana, Haiti, Honduras, India, Indonesia, Iran (Islamic Republic of), Israel, Italy, Jamaica, Japan, Jordan, Kazakhstan, Kuwait, Lao People's Democratic Republic, Lebanon, Lesotho, Libyan Arab Jamahiriya, Madagascar, Malaysia, Malawi, Maldives, Mali, Malta, Mauritius, Mauritania, Mexico, Monaco, Mongolia, Morocco, Mozambique, Myanmar, Namibia, Nepal, Nicaragua, Nigeria, Pakistan, Panama, Paraguay, Peru, Philippines, Poland, Portugal, Qatar, Republic of Moldova, Romania, Russian Federation, Rwanda, Saint Lucia, San Marino, Saudi Arabia, Senegal, Sierra Leone, Singapore, Slovakia, Somalia, South Africa, Spain, Sri Lanka, Sudan, Suriname, Swaziland, Syrian Arab Republic, Thailand, Togo, Trinidad and Tobago, Tunisia, Turkey, Tuvalu, Uganda, Ukraine, United Republic of Tanzania, United States of America, Uruguay, Venezuela, Viet Nam, Zambia, Zimbabwe.

Against:

None

Abstaining:

Albania, Angola, Belarus, Belgium, Benin, Brazil, Cameroon, Canada, Cape Verde, Costa Rica, Croatia, Czech Republic, Denmark, Estonia, Finland, Gambia, Germany, Hungary, Ireland, Iceland, Latvia, Liechtenstein, Lithuania, Luxembourg, Marshall Islands, Netherlands, New Zealand, Norway, Republic of Korea, Samoa, Slovenia, Sweden, Switzerland, The former Yugoslav Republic of Macedonia, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, Yugoslavia.

49. *Draft resolution A/C.3/57/L.70 was adopted by 123 votes to none, with 37 abstentions.*

50. **Mr. Zellweger** (Switzerland) said that his delegation, which had requested postponement of the vote, regarded it as unfortunate that no agreement had been reached, and that the Secretary-General had not had an opportunity of stating his views on the matter in person. The General Assembly appeared to be divided, but it was to be hoped that the resolution that had just been adopted would bear fruit none the less.

51. **Ms. Miller** (Sweden) said that in her delegation's view, it was essential for the Extraordinary Chambers to exercise their competence in accordance with international standards of justice, fairness and due process of law, and for the Secretary-General to be entrusted with a viable mandate. It was doubtful whether the resolution that had just been adopted would be effective, and it was unfortunate that the Government of Cambodia had not become a sponsor. Furthermore, activities of that kind should be funded out of contributions from Member States.

52. **Mr. Rostow** (United States of America) thanked all the sponsors. It was regrettable that the Government of Cambodia had not itself become a sponsor of the draft resolution, after five years of negotiations, and after the promulgation of the Law on the Establishment of Extraordinary Chambers in Cambodia.

53. **Mr. Maartens** (Belgium) said that it was unfortunate that the text of the draft resolution still contained some ambiguities.

54. **Mr. Wood** (United Kingdom) said that his delegation had abstained, although it fully supported the objectives of the draft resolution. It was disconcerting to note that the delegations of some countries for which the draft resolution was immediately relevant had not supported it, and that the Secretary-General had expressed reservations concerning the implementation of the draft resolution in the event that it should be adopted.

55. **Mr. Kühnel** (Austria) said that his delegation had voted in favour of the draft resolution, since it was essential for negotiations to resume as soon as possible. The fact that the draft resolution had been adopted was an initial step in that direction. It was true that only articles 14 and 15 of the International Covenant on Civil and Political Rights were explicitly referred to in the text, but quite clearly they were mentioned by way of example; all international standards of justice would have to be observed by the Extraordinary Chambers.

56. **Mr. Huston** (Liechtenstein) said that while it was essential to establish Extraordinary Chambers, it was unfortunate that Cambodia had not become a sponsor of the draft resolution. Moreover, the text of the draft resolution, as adopted, did not address the concerns expressed by the Secretary-General about adherence to international standards of justice. It was because of the uncertainties engendered by the text of the draft resolution that his delegation had abstained.

57. **Mr. Bliss** (Australia) said that his delegation had voted in favour of the draft resolution. It had been disappointed when negotiations were broken off in February 2002, and had been endeavouring since August of that year to get them restarted. His delegation urged the Secretary-General and the Government of Cambodia most earnestly to ensure that the Extraordinary Chambers exercised their competence in accordance with international standards.

(c) Human rights situations and reports of special rapporteurs and representatives (*continued*) (A/C.3/57/L.43/Rev.1)

Draft resolution A/C.3/57/L.43/Rev.1: Situation of human rights in the Sudan

58. **The Chairman** announced that draft resolution A/C.3/57/L.43/Rev.1 had no programme budget implications, and asked whether the main sponsor would like to make a statement.

59. **Ms. Eskjær** (Denmark) said that Switzerland had joined the sponsors. Two amendments had been made to the draft resolution and had been brought to the notice of the country concerned and of the sponsors: a clause reading "and the two memoranda signed at the conclusion of the second round of peace talks on 18 November 2002" should be added at the end of operative subparagraph 1(a), while in operative subparagraph 3(c) the word "initial" should be deleted. The two amendments were intended to reflect the positive results of the second round of peace talks.

60. Since the introduction of draft resolution A/C.3/57/L.43, entitled "Situation of human rights in the Sudan", the sponsors had engaged in constructive consultations with the Sudan and the other interested parties with a view to reaching a consensus. The revised draft and the two amendments were the outcome of those negotiations, in the course of which particular attention had been paid to the Sudan's reservations about the original text. In particular, the draft resolution's expressions of concern about the situation of the rights of women and children had been toned down: it now made a point of welcoming the Government of the Sudan's efforts to eradicate the abduction of women and children. It also highlighted the recent agreement on procedures for unimpeded humanitarian aid access, and welcomed the outcome of the recent negotiations between the Government and the Sudan People's Liberation Army/Movement, including in particular the extension of the cease-fire agreement to 31 March 2003. In general, the sponsors considered that the revised draft text painted a true and faithful picture of the situation of human rights in the Sudan, and hoped that it would be adopted by consensus.

61. **The Chairman** asked whether any delegations would like to offer general comments on the revised draft resolution.

62. **Mr. Erwa** (Sudan) said that despite negotiations between the delegation of the Sudan and those of Denmark and all the States Members of the European Union, draft declaration A/C.3/57/L.43/Rev.1 still fell far short of reflecting the actual situation of human rights in the Sudan. In the first place, it did not take into account either encouraging recent developments in the peace process in the Sudan or the spirit of dialogue and conciliation that had led to the historic agreements between the Government and the Sudan People's Liberation Army/Movement, reached under the

auspices of the International Authority on Development. In spite of the amendments made by the European delegations, the draft resolution did not offer any message of encouragement to those who were engaged in the dialogue at Machakos in Kenya. In the second place, the draft resolution did not address the concerns expressed by most of the delegations about the fact that the Special Rapporteur of the Commission on Human Rights had exceeded his mandate. In the third place, the wording of the text disregarded the sovereignty of the Sudan and was full of explanations and allegations based on unreliable information. In the fourth place, the draft resolution was out of date, expressing, in subparagraphs 2(k), 2(m) and 3(d) in particular, concerns relating to a situation antedating the signing of the agreements. Lastly, the text did not take into account legislative measures that had already been adopted by the Government of the Sudan. In view of those considerations, the delegation of the Sudan would vote against the draft resolution, and called upon all delegations to do likewise.

63. **Ms. Loemban Tobing-Klein** (Suriname) recalled that human rights should not be used for political purposes to punish a country or innocent people. It was not clear on what basis the Member States could judge and criticize the situation of human rights in the Sudan, when the Special Rapporteur, the Special Envoy and the Secretary-General had acknowledged that progress had been made and encouraged the country in question to continue its efforts in that connection.

64. Her delegation had decided not to take part in any more votes on resolutions having to do with the human rights situation in some particular country. It would be preferable, in the future, for resolutions of that kind to be drafted under the responsibility of the Chairman of the Committee, working in close collaboration with the country concerned and relying on the report of the Special Rapporteur. It was unfortunate that the Sudan and the delegations of the European Union had not reached a consensus. For those reasons, her delegation had decided not merely to abstain, but to vote against the draft resolution.

65. **Ms. Khalil** (Egypt) said that it was important to bear in mind that scrutiny of the human rights situation in a particular country should not serve as a pretext for interference in the affairs of a Member State. The object of such scrutiny should be constructive dialogue, not arbitrary accusations. Her delegation wished to align itself with that of Suriname in rejecting any politically motivated use of the issue of human rights. It was regrettable that countries should be selected as the subjects of special reports on the basis of exclusively political criteria. The draft resolution was biased, it did not accurately reflect the situation in the Sudan, and it did not take into consideration the practical measures taken by the Government of the Sudan. Consequently, her delegation intended to vote against it.

66. **Mr. Negroponte** (United States of America) said that his delegation was convinced that it was essential for the Assembly to adopt a resolution unequivocally condemning the human rights violations committed by the Government of the Sudan. It was regrettable that the text of the draft resolution did not refer more explicitly to slavery and religious persecution in the Sudan, and it was unfortunate that the international community had not taken advantage of the opportunity to condemn Khartoum's support for those shameful practices. His delegation intended to vote in favour of the draft resolution none the less, to avoid the prospect of its being adopted without the support of the United States, but would continue to draw attention to the abuses committed by the Government of the Sudan. His delegation welcomed the substantial progress that had been made in the peace talks in the Sudan and would endeavour to ensure that the final agreement included provisions for the safeguarding of fundamental freedoms and human rights.

67. **Mr. Xie** Bohua (China) pointed out that whereas the Government of the Sudan was sparing no effort to improve the situation of human rights in the country and to find a solution to the conflict with the Sudan People's Liberation Movement, the draft resolution not only failed to take those initiatives into account but contained unsubstantiated accusations. Accordingly, his delegation could only vote against the draft resolution.

68. **Mr. Andrabi** (Pakistan), speaking in explanation of vote before the voting, welcomed the efforts of the United Nations to promote and protect human rights. However, his delegation was not convinced of the utility of resolutions on human rights situations in specific countries. They might give the impression that some countries presumed to judge others, and they were selective, especially in view of the fact that no State could boast of being above reproach in the matter of human rights. It was regrettable that the debate was being used for political ends. The draft resolution did

not take account of the progress that had been made in the Sudan, and was an instance of interference in that country's internal affairs. His delegation, therefore, would vote, as usual, against the draft resolution.

69. *A recorded vote was taken.*

In favour:

Albania, Andorra, Argentina, Australia, Austria, Bahamas, Barbados, Belgium, Belize, Bolivia, Bosnia and Herzegovina, Brazil, Bulgaria, Canada, Chile, Colombia, Costa Rica, Croatia, Cyprus, Czech Republic, Denmark, Dominican Republic, Ecuador, El Salvador, Estonia, Fiji, Finland, France, Georgia, Germany, Greece, Guatemala, Hungary, Iceland, Ireland, Israel, Italy, Japan, Kazakhstan, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Marshall Islands, Mexico, Monaco, Namibia, Netherlands, New Zealand, Nicaragua, Norway, Panama, Paraguay, Peru, Poland, Portugal, Republic of Korea, Republic of Moldova, Romania, Rwanda, Samoa, San Marino, Slovakia, Slovenia, Spain, Sweden, Switzerland, The former Yugoslav Republic of Macedonia, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Venezuela, Yugoslavia.

Against:

Afghanistan, Algeria, Azerbaijan, Bahrain, Bangladesh, Benin, Brunei Darussalam, Burkina Faso, Burundi, Cambodia, Chad, China, Comoros, Congo, Cuba, Democratic Republic of the Congo, Democratic People's Republic of Korea, Djibouti, Egypt, Ethiopia, Gabon, Gambia, Guinea-Bissau, India, Indonesia, Iran (Islamic Republic of), Jordan, Kuwait, Lebanon, Libyan Arab Jamahiriya, Malaysia, Mali, Mauritania, Morocco, Myanmar, Nepal, Nigeria, Oman, Pakistan, Qatar, Russian Federation, Saudi Arabia, Somalia, South Africa, Sudan, Suriname, Swaziland, Syrian Arab Republic, Togo, Tunisia, Ukraine, United Arab Emirates, Viet Nam.

Abstaining:

Angola, Antigua and Barbuda, Belarus, Bhutan, Botswana, Cameroon, Cape Verde, Dominica, Eritrea, Ghana, Jamaica, Kenya, Lesotho, Madagascar, Malawi, Mongolia, Mozambique, Philippines, Saint Lucia, Senegal, Sierra Leone, Singapore, Sri Lanka, Thailand, Trinidad and Tobago, Uganda, United Republic of Tanzania, Zambia, Zimbabwe.

70. *Draft resolution A/C.3/57/L.43/Rev.1 was adopted by 74 votes to 53, with 29 abstentions.*

71. **Ms. Jackson** (Bahamas) said that her delegation was convinced that the draft resolution would be likely to improve the situation of human rights in the Sudan, and had therefore voted in favour of it. It was also noteworthy that the question of capital punishment was within the competence of individual States.

72. **Mr. Chowdhury** (Bangladesh) noted that Bangladesh promoted respect for human rights both domestically and internationally. The progress that the Government of the Sudan had made in that area, despite a very complex situation, was to be welcomed. He hoped that the Sudan would take his delegation's vote as a message of encouragement.

73. **Mr. Babikir** (Chad) noted that his delegation had again voted against the draft resolution, as it was difficult to consider the question of human rights in the Sudan in isolation from the armed conflict that had ravaged the country for nearly two decades. Furthermore, even though the Government of the Sudan had made great progress, especially with respect to political pluralism, freedom of expression and association and settlement of the conflict, the draft resolution continued to criticize and condemn the Sudan as though nothing had changed.

74. **Mr. Morikawa** (Japan) drew the representatives' attention to the statement made by the Ambassador of Japan advocating an approach based on dialogue and cooperation in the field of human rights. It was to be hoped that the effort to reach a consensus would contribute to improving the situation of human rights in the Sudan.

Draft resolution A/C.3/57/L.71: Question of human rights in Afghanistan

75. **The Chairman** said that as the situation in Afghanistan had radically evolved, the draft resolution that he was submitting on the basis of informal consultations had been updated and restructured, with the assistance of the delegation of Italy in particular. The draft resolution had no programme budget implications.

76. *Draft resolution A/C.3/57/L.71 was adopted without a vote.*

(d) Comprehensive implementation of and follow-up to the Vienna Declaration and Programme of Action (*continued*) (A/C.3/57/L.84)

Draft decision A/C.3/57/L.84: Commemoration of the 10th anniversary of the World Conference on Human Rights in 2003

77. **The Chairman** said that the draft decision, which he was submitting on the basis of unofficial consultations, had no programme budget implications.

78. *Draft decision A/C.3/57/L.84 was adopted without a vote.*

The meeting rose at 6 p.m.